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**From:** Johnson, Kathleen [Johnson.Kathleen@epa.gov]  
**Sent:** 1/22/2021 6:18:03 PM  
**To:** Starfield, Lawrence [Starfield.Lawrence@epa.gov]  
**CC:** Shiffman, Cari [Shiffman.Cari@epa.gov]; Branning, Hannah [Branning.Hannah@epa.gov]; LaBoda, Sarah [LaBoda.Sarah@epa.gov]  
**Subject:** email to Melissa Hoffer revoking Section 6 memo  
**Attachments:** EO 13892 Section 6 revocation.docx

Larry,

As discussed, below is a suggested email to send to Melissa Hoffer re: revocation of the Section 6 joint memo. Also attached is a draft joint revocation memo as an attachment.

Melissa,

On January 20<sup>th</sup> President Biden issued an Executive Order (EO) on *Revocation of Certain Executive Orders Concerning Federal Regulations*. The EO specifically revokes EO 13892 *Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication* issued by the Trump administration. The EO further states that the heads of agencies shall “promptly take steps to rescind any orders, rules, regulations, guidelines or policies” implementing that order.

In September 2020, Assistant Administrator Bodine and General Counsel Matthew Leopold issued a memorandum (AA/GC memo) implementing Section 6 of Executive Order 13892. Section 6 of the EO provided that agencies engaged in an administrative enforcement action should afford regulated parties certain procedural safeguards above and beyond those required by the Due Process Clause of the Fifth Amendment. Among other things, the AA/GC memo requires, as a matter of policy, that enforcement staff provide respondents with an opportunity to confer before initiating administrative enforcement actions. While historic agency practice has been to provide the regulated community with an opportunity to confer, the AA/GC memo raised numerous implementation issues and was unwarranted.

As the 13892 Section 6 memo was jointly issued by the Assistant Administrator for OECA and the General Counsel, I would propose we jointly issue the attached revocation as soon as possible. If you have any questions, please contact me or Kathleen Johnson of my staff. Andy Simons, on your staff, is also very familiar with the Section 6 memo.

(note in the attached memo – I’m not sure if Melissa is the acting GC or does it go out over her signature as deputy?)

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